

§ 1045.16

10 CFR Ch. X (1–1–09 Edition)

(12) Types of waste products resulting from all DOE weapon and material production operations;

(13) Any information solely relating to the public and worker health and safety or to environmental quality; and

(14) The simple association or simple presence of any material (i.e., element, compound, isotope, alloy, etc.) at a specified DOE site.

(e) The Director of Classification and the Chief Health, Safety and Security Officer shall presume that information in the following areas is classified unless the application of the criteria in § 1045.16 indicates otherwise:

(1) Detailed designs, specifications, and functional descriptions of nuclear explosives, whether in the active stockpile or retired;

(2) Material properties under conditions achieved in nuclear explosions that are principally useful only for design and analysis of nuclear weapons;

(3) Vulnerabilities of U.S. nuclear weapons to sabotage, countermeasures, or unauthorized use;

(4) Nuclear weapons logistics and operational performance information (e.g., specific weapon deployments, yields, capabilities), related to military utilization of those weapons required by the DoD;

(5) Details of the critical steps or components in nuclear material production processes; and

(6) Features of military nuclear reactors, especially naval nuclear propulsion reactors, that are not common to or required for civilian power reactors.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

§ 1045.16 Criteria for evaluation of restricted data and formerly restricted data information.

(a) The Director of Classification shall classify information as RD and the Chief Health, Safety and Security Officer shall maintain the classification of RD (and FRD in coordination with the DoD) only if undue risk of damage to the common defense and security from its unauthorized disclosure can be identified and described.

(b) The Director of Classification shall not classify information and the Chief Health, Safety and Security Officer shall declassify information if

there is significant doubt about the need to classify the information.

(c) The Director of Classification and the Chief Health, Safety and Security Officer shall consider the presumptions in § 1045.15 (d) and (e) before applying the criteria in paragraph (d) of this section.

(d) In determining whether information should be classified or declassified, the Director of Classification and the Chief Health, Safety and Security Officer shall consider the following:

(1) Whether the information is so widely known or readily apparent to knowledgeable observers that its classification would cast doubt on the credibility of the classification system;

(2) Whether publication of the information would assist in the development of countermeasures or otherwise jeopardize any U.S. weapon or weapon system;

(3) Whether the information would hinder U.S. nonproliferation efforts by significantly assisting potential adversaries to develop or improve a nuclear weapon capability, produce nuclear weapons materials, or make other military use of nuclear energy;

(4) Whether publication of the information would have a detrimental effect on U.S. foreign relations;

(5) Whether publication of the information would benefit the public welfare, taking into account the importance of the information to public discussion and education and potential contribution to economic growth; and, 6) Whether publication of the information would benefit the operation of any Government program by reducing operating costs or improving public acceptance.

[62 FR 68509, Dec. 31, 1997, as amended at 71 FR 68737, Nov. 28, 2006]

§ 1045.17 Classification levels.

(a) *Restricted Data*. The Director of Classification shall assign one of the following classification levels to RD information to reflect the sensitivity of the information to the national security. The greater the damage expected from unauthorized disclosure, the higher the classification level assigned to the information.

(1) *Top Secret*. The Director of Classification shall classify RD information